

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JAMIE LEE WATTS,

Defendant-Appellant.

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UNPUBLISHED

May 4, 1999

No. 202969

Bay Circuit Court

LC Nos. 96-001150 FH

96-001151 FH

Before: Gage, P.J., and Gribbs and Hoekstra, JJ.

MEMORANDUM.

Defendant appeals of right from his concurrent sentences of two- to four-years' imprisonment and two- to eight-years' imprisonment for his plea-based convictions of two counts of conspiracy to commit illegal use of a financial transaction device, MCL 750.157q; MSA 28.354(16), and one count of habitual offender, second offense, MCL 769.10; MSA 28.1082. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

On April 24, 1996 defendant pleaded guilty to two counts in separate files of conspiracy to commit illegal use of a financial transaction device, a four-year felony, and to one count of habitual offender, second offense. In exchange for the plea, the prosecution agreed to dismiss other charges. When defendant failed to appear for sentencing, he was charged with absconding and habitual offender, third offense, to which he ultimately pleaded guilty. On March 31, 1997 the trial court sentenced defendant to concurrent terms of two- to four-years' imprisonment for the conspiracy and habitual offender, second offense, charges, to be served consecutively to a two- to eight-year term for the absconding and habitual offender, third offense, charges in the other case. Defendant was given credit for 165 days in jail. In imposing sentence, the court recognized that defendant had a substance abuse problem, but concluded that that problem could be addressed in the prison setting. The court concluded that given the serious nature of defendant's offenses, prison was warranted.

Defendant argues that his sentences were disproportionate because the trial court did not consider his ongoing substance abuse problem and the mental strain under which he was operating when it imposed sentence. We disagree. The sentencing guidelines do not apply to habitual offenders. The standard of review for a sentence imposed on an habitual offender is abuse of discretion. If an habitual

offender's underlying criminal history demonstrates that he is unable to conform his conduct to the law, a sentence within the statutory limits does not constitute an abuse of discretion. *People v Hansford (After Remand)*, 454 Mich 320, 323-324, 326; 562 NW2d 460 (1997). Defendant's prior record consisted of numerous felonies and misdemeanors, and included assaultive offenses. Defendant made a conscious decision to abscond, and was discovered only when he was arrested for domestic violence. Defendant has demonstrated that he cannot conform his conduct to the requirements of the law. His sentences were within the statutory limits, MCL 769.11(1)(a); MSA 28.1083(1)(a), and were fashioned with due regard for his substance abuse problem. Defendant's sentences do not constitute an abuse of discretion under the circumstances.

Affirmed.

/s/ Hilda R. Gage

/s/ Roman S. Gibbs

/s/ Joel P. Hoekstra